THE PORT FOLIO

ENLARGED.

BY OLIVER OLDSCHOOL, ESQ.

"VARIOUS, THAT THE MIND
OF DESULTORY MAN, STUDIOUS OF CHANGE,
AND PLEAS'D WITH NOVELTY, MAY BE INDULGED."
COWPER.

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PHILADELPHIA, THURSDAY, JANUARY 21st, 1802.

ORIGINAL PAPERS.

[In the "Anti-Democrat," we read some original essays, which display the gaiety of Goldsmith.]

THE AMERICAN OBSERVER.

No. I.

Quicquid agunt homines, votum, timor, ira, voluptas,
Gaudia, discursus, nostri farrago libelli.

JUVENAL.

All human actions, wishes, fears or rage,
Pleasures, or joys, or reasonings of the sage,
Compose the motley matter of our page.

THERE is, perhaps, no mode of writing so well calculated to excite universal attention, as the productions of the essayist. Few men are disposed to pursue, systematically, the concatenation of historical events, to watch the unfolding of characters in a novel, or lose their senses in its labyrinth; but all can find time, and supply it patience, for a short essay on life or literature.

But the great difficulty in undertaking a periodical paper for the public, is to find an appropriate title. I have been anticipated in almost every name that my mind could suggest. The Tatler, Spectator, Guardian, and Rambler; the Idler, Mirror, World, and Lounger, are titles become classical by prescriptive veneration; and, for a *common* writer to assume either of these, would be to incur animadversion, and provoke the insolence of contempt. To the preceding writers, have succeeded a *servum pecus*, an ignoble herd, of *Bablers*, *Triflers*, *Philanthropes*, and *Quizzes*, whose productions are fast descending to the peaceful shelf. But from this censure must be exempted the Looker On, Observer, and Indian Observer, whose remarks on life are acute, whose criticisms are just, and whose style is always pure.

When Mr. Boyd entered on the duty of Censor Morum at Madras, he assumed the title of Indian Observer, and advanced steadily in his march, gratified by the voice of public approbation, and undisturbed by those literary reptiles, whom the rays of his genius called forth into a momentary existence. That I am as much an American, as Mr. Boyd was an Indian, no man, of any country, will deny; but that I shall not equal him, either in acuteness of research, profoundness of criticism, or inculcation of moral duties, I fear the whole world will affirm. Yet confidence is necessary to great undertakings, and, as I consider this a very important one, I, far from servilely deprecating the severity of my readers, call boldly on them to read my essays, admire the justness of my thoughts, the naievete of my humour, and the melody of my periods.

But it is not my purpose, in the progress of this paper, to enter into abstract reasoning, or grave discussions of moral duty. Let those who write, says Horace, chuse subjects that are suitable to their genius. It belonged to a Johnson to make the atheist tremble, and impiety shrink at his rebuke; for me only is left the hope of harmlessly amusing, and to shoot the lighter follies that eluded his giant grasp.

It has been observed, both by an ancient sage, and a modern poet, that

"The proper study of mankind is man."

I, therefore, leave the joy and the depression, the loves and hatred of plants, to Dr. Darwin and his enthusiasts; I purpose to make life and manners the object of my investigation; and, as some men take delight in determining the specific gravity of the air, fabricating a cheese of vast dimensions, collecting the bones of an overgrown animal, or ascertaining the distinction between mushrooms and toad-stools, so my felicity consists in examining the volume of the world, and tracing the emotions of the soul, in the *human face divine*.

If I labour under some privations in this city, I also enjoy many advantages. For models of eloquence, I have only to repair to the "siege of York," where my ear is ravished by the music of periods, that out-Cicero Cicero; where the action is suited to the word, and the word to the action; where every recess of the human character is explored, from the white to the black man; and, lastly, where the mind can sublimely digress from *Charles* of *Sweden* to *Swedenborg*, and from *Buonaparte* to *Barnaby Brittle*.

I conclude this first number, with inviting all those, who are desirous of literary reputation, and eager *virum volitare per ora*, to rouse from their lethargy, and contribute their help to promote chearfulness, and a love of erudition. The correspondence of the fair shall be particularly noticed; for *place aux Dames* was ever a favourite maxim of the Observer. D.

FOR THE PORT FOLIO.

AN AUTHOR'S EVENINGS.

FROM THE SHOP OF MESSRS. COLON AND SPONDEE.

To night, after my return from the theatre, into which I sometimes saunter, to smooth the wrinkles of my brow, to surrender myself to the illusions of imagination, and derive fresh spirits for my lucubrations, I could not help reflecting, in consequence of witnessing the new pantomime of *Obi*, upon the universal belief of the existence and potency of supernatural and malevolent beings. Magical rites and incantations; the charm and the cauldron, the loathsome reptile and the dragon's blood, have been successfully employed by the cunning, and implicitly dreaded by the timid, in every age. The striking similarity observable in most of the mummeries of superstition, lead me to the collation of the "*charms*" of sorcery, as described by three different authors. The substance of the first account is extracted from the British Magazine. The circumstances, on which this piece* is founded, are related in Dr. Moseley's Treatise on Sugar, and Medical Observations. A revolted negro, named Jack, of gigantic strength and great intrepidity, took up his residence in the inaccessible parts of Mount Lebanus, in Jamaica, and by his boldness, bravery, and depredations, became the terror of the island. Many attempts were made to subdue him, but without success; in one of these conflicts with a negro, named Quashee, he lost two fingers, and thus acquired his nickname. He was dreaded by the negroes, on account of his supposed magical powers, and the influence of his *obi*. This obi consisted in a composition of dirty and disgusting materials; namely, *grave* dirt, ashes, the blood of a *black* cat, and *human fat*, mixed into a paste, kept in the end of a goat's horn, and worn about the neck. He had also in a bag, a dried toad, a pig's tail, and a slip of *virginal* parchment of kid's skin, inscribed with characters of blood. His repeated enormities, at length, induced the government to offer a large reward for killing him, which was finally effected by two negroes, Quashee and Sam; aided by a little boy. Before they set out on the expedition, the negroes took the precaution to be baptized, in confidence that by such means, they would be enabled to resist the effects of obi.

The following article contains some additional information touching this *African* magic.

Obi, or, as it is pronounced in the English West Indies, obeah, originated, like many customs among the Africans, with the ancient *Egyptians*. Obi, for the purpose of bewitching people, or consuming them by lingering illness, is made of grave dirt, hair, teeth of sharks and other animals, blood, feathers, egg-shells, images in wax, the hearts of birds, liver of mice, and some potent weeds, roots and bushes, of which Europeans are at this time ignorant. A negro, who thinks himself bewitched by obi, will apply to an obi man or an obi woman for cure.

The next narrative of these baleful rites is to be found in BEN. JONSON, who, in his "*Masque of Queens*," has thus minutely described a nocturnal meeting of the hags of witchcraft. As this description is not generally known, as it is most wildly poetical, and of vivid interest, as the form of invocation is tremendous, and as it describes things "most fanciful and strange," we recommend it to the curious reader.

Dame, dame, the watch is set:
Quickly come, we all are met,
From the lakes, and from the fens,
From the rocks, and from the dens,
From the woods, and from the caves,
From the church-yards, from the graves,
From the dungeon, from the tree
That they die on, here are we.

The owl is 'broad, the bat and the toad,
And so is the cat a-mountain,
The ant and the mole both sit in a hole,
And frog peeps out of the fountain;
The dogs they do bay, and the timbrels play,
The spindle is now a turning;
The moon it is red, and the stars are fled,
But all the sky is a burning:
The ditch is made, and our nails the spade,
With pictures full, of wax and of wool;
Their livers I stick, with needles quick;
There lacks but the blood, to make up the flood.
Quickly, dame, then bring your part in,
Spur, spur upon little Martin,
Merrily, merrily, make him sail,
A worm in his mouth, and a thorn in's tail,
Fire above, and fire below,
With a whip i' your hand, to make him go.
O, now she's come!
Let all be dumb.

* "Three-Fingered Jack."

I have been all day looking after
A raven, feeding upon a quarter;
And, soon as she turn'd her beak to the south,
I snatch'd this morsel out of her mouth.

I have been gathering wolves' hairs,
The mad dog's foam, and the adder's ears;
The spurging of a dead man's eyes,
And all since the evening star did rise.

I last night lay all alone
O' the ground, to hear the mandrake groan;
And pluck'd him up, though he grew full low;
And, as I had done, the cock did crow.

And I ha' been choosing out this skull!
From charnel houses, that were full;
From private grots, and public pits;
And frighted a sexton out of his wits.

Under a cradle I did creep,
By day; and, when the child was asleep
At night, I suck'd the breath: and rose,
And pluck'd the nodding nurse by the nose.

I had a dagger: what did I with that?
Kill'd an infant to have his fat.
A piper it got, at a church aisle,
I bade him again blow wind i' the tail.

A murderer yonder was hung in chains,
The sun and the wind had shrunk his veins;
I bit off a sinew; I clipp'd his hair;
I brought off his rags, that danc'd i' the air.

The screech owl's eggs, and the feathers black,
The blood of the frog, and the bone in his back,
I have been getting: and made of his skin
A purset, to keep Sir Cranion in.

And I ha' been plucking (plants among)
Hemlock, henbane, adders-tongue,
Night-shade, moon-wort, libbard's bane;
And twice, by the dogs, was like to be ta'en.

I, from the jaws of a gard'ner's bitch,
Did snatch these bones, and then leap'd the ditch:
Yet went I back to the house again,
Kill'd the black cat, and here's the brain.

I went to the toad breeds under the wall,
I charm'd him out, and he came at my call;
I scratch'd out the eyes of the owl before,
I tore the bat's wing: what would you have more?

DAME.

Yes, I have brought (to help our vows)
Horned poppy, cypress boughs,
The fig tree wild, that grows on tombs,
And juice that from the larch tree comes,
The basilisk's blood, and the viper's skin:
And now our orgies let's begin.

Dame Earth shall quake,
And the houses shake,
And her belly shall ake,
As her back were brake,
Such a birth to make,
As is the blue drake,
Whose form thou shalt take.

The sticks are across, there can be no loss,
The sage is rotten, the sulphur is gotten
Up to the sky, that was i' the ground.
Follow it then, with our rattles, round;
Under the bramble, over the brier,
A little more heat will set it on fire:
Put it in mind, to do it kind,
Flow water and blow wind
Rouncy is over, Robble is under,
A flash of light, and a clap of thunder,
A storm of rain, another of hail.
We all must home i' the egg-shell sail;
The mast is made of a great pin,
The tackle of cobweb, the sail as thin,
And if we go through and not fall in.....

DAME.

Stay, all our charms do nothing win
Upon the night; our labour dies!
Our magic feature will not rise;
Nor yet the storm! we must repeat
More direful voices far, and beat
The ground with vipers, till it sweat.

Bark dogs, wolves howl,
Seas roar, woods roll,
Clouds crack, all be black,
But the light our charms do make.

Not yet! my rage begins to swell,
Darkness, devils, night, and hell,
Do not thus delay my spell.
I call you once, and I call you twice;
I beat you again, if you stay my thrice;
Through these cranies where I peep,
I'll let in the light to see your sleep.
And all the secrets of your sway
Shall lie as open to the day,
As unto me. Still are you deaf?
Reach me a bough that ne'er bare leaf,
To strike the air; and Aconite,
To hurl upon this glaring light;
A rusty knife to wound mine arm;
And as it drops, I'll speak a charm,
Shall cleave the ground, as low as lies
Old shrunk-up Chaos, and let rise,
Once more, his dark and reeking head,
To strike the world and nature dead,
Until my magic birth be bred.

Black go in, and blacker come out;
At thy going down we give thee a shout.
Hoo!
At thy rising again thou shalt have two,
And if thou dost what we would have thee do,
Thou shalt have three, thou shalt have four,
Thou shalt have ten, thou shalt have a score.
Hoo. Har. Har. *Hoo!*

A cloud of pitch, a spur and a switch,
To haste him away, and a whirlwind play,
Before and after, with thunder for laughter,
And storms for joy, of the roaring boy;
His head of a drake, his tail of a snake.

About, about, and about,
Till the mist arise, and the lights fly out.
The images neither be seen nor felt:
The woolen burn, and the waxen melt:
Sprinkle your liquors upon the ground,
And into the air: around, around.

Our last quotation is sufficiently familiar, but it would be high treason to the majesty of SHAKSPEARE, to omit the subsequent passage from his "*Macbeth.*"

Thrice the brindled cat hath mew'd,
Thrice; and once the hedge pig whin'd.
Harper cries: 'tis time, 'tis time.
Round about the cauldron go,
In the poison'd entrails throw;
Toad that under the cold stone
Days and nights hast thirty one
Swelter'd venom sleeping got,
Boil thou first in the charmed pot.

Fillet of a fenny snake,
In the cauldron boil and bake;
Eye of newt, and toe of frog,
Wool of bat and tongue of dog,
Adder's fork, and blind worm's sting,
Lizard's leg, and owlet's wing,
For a charm of powerful trouble,
Like a hell broth, boil and bubble.

Scale of dragon, tooth of wolf,
Witch's mummy; maw and gulf
Of the ravin'd salt sea shark;
Root of hemlock, digg'd in the dark;
Liver of blaspheming Jew;
Gall of goat; and slips of yew,
Sliver'd in the moon's eclipse;
Nose of Turk, and Tartar's lips;
Finger of birth-strangled babe,
Ditch deliver'd by a drab;
Make the gruel thick and slab;
Add thereto a tyger's chaudron,
For the ingredients of our cauldron.

POLITICS.

FROM THE NEW-YORK EVENING POST.

AN EXAMINATION OF THE PRESIDENT'S MESSAGE, CONTINUED,

NUMBER IV.

IT is matter of surprise to observe a proposition to diminish the revenue, associated with intimations which appear to contemplate war. The suggestions in the Message respecting the Barbary States, plainly enough imply, that treaties are found to be too feeble cords to bind them; and that a resort to coercive means will probably be requisite to enforce a greater sense of justice towards us. Accordingly, as a comment on this hint, we have seen a resolution brought into the House of Representatives, authorising the President to take measures effectually to protect our commerce against those states. Believing it to be a sound position, that these predatory nations will never be brought to respect sufficiently the rights of this country, whether derived from nature or from compact, without first being made to feel its power, there is no disposition to condemn the efficacious employment of force. Yet, considering the maxims by which those states are governed, and the obstinacy which they have evinced upon other occasions, it is likely that a policy of this sort will be attended with considerable, and with no very temporary expense. This alone is conceived to be a conclusive reason against parting with any portion of our present income: nothing could be less advisable, at a moment when there is the prospect, if not the project, of a general rupture with them.

Hitherto the proposal for sacrificing the internal revenue, has been tried almost wholly by the test of expediency;—it is time to put it to a severer test: to that of *Right*. *Can the proposed abolition take effect without impairing the* PUBLIC FAITH?

This is a question of infinite moment to the character of our Government—to the prosperity of our nation. If it is to be answered in the negative, it must be matter of profound regret, that a proposal which could give rise to it, should have come from the first Magistrate of the United States.

It is hardly necessary to premise, by way of explanation, that *to pledge or appropriate* funds for a public debt, is, in effect, to *mortgage* them to the public creditors *for their security*. Retracing our financial system to its commencement, we find the impost and the excise on distilled spirits, repeatedly and positively pledged, first, for the payment and interest of the debt, next, for the reimbursement of certain instalments of the principal. It is true, the appropriation is qualified by the words, "so much as may be necessary," but the *public faith* is engaged in express terms, that *both the funds* shall continue to be levied and collected, until the whole debt shall be discharged; with the single reserve, that the government shall be at liberty to *substitute* other funds of *equal amount*. It follows, that these *two items* of revenue constitute a *joint* fund for the security of the public creditor, co-extensive in duration with the existence of any portion of the debt: and it is to be inferred, that the Government, contemplating the possibility of a deficiency in *one*, intended that the *other* should serve as an *auxiliary*, and that the *co-operation* of the *two* should effectually guard the creditor against the fluctuations and casualities to which *either singly*, might be exposed. Anticipating, however, the possibility that *the one* or *the other*, in whole or in part, might in practice be found inconvenient, a right was reserved to *exchange* either for an *adequate substitute*. But it is conceived that this does not imply the right to exchange *the one* for *the other*. The effect would be essentially different in the two cases: in the first there would always be *two funds*, aggregately, of the same or similar force and value, to secure the creditor; in the last there would be *only one*: from being double, the security would become single.

This mode of reasoning is the only one, upon which the rights and the interests of the creditors can safely rest: It is plain and intelligible, and avoids the danger of erroneous speculations about the *separate sufficiency* of the respective funds. Admitting, however, for the sake of the argument, that this is too rigid a construction of the contract, and that when *one* of the *two* funds should have acquired a stable increase, which

would render it equal to the purpose of the pledge, it might then be made to stand in the place of both: yet, surely, neither the purity of the public faith, nor the safety of the creditor, will endure the application of this principle to any other, than an ascertained result.—Neither, certainly, will tolerate, that merely a *reasonable ground of confidence* shall authorize so material an alteration in the essence of the security which protects the debt.

The foregoing reasoning as to the question of right, may be further elucidated by the particular provision in the Act* which introduced the excise on distilled spirits. After a *permanent* appropriation of the proceeds of the tax to the interest of the debt, it provides, that the surplus if any there shall be, at the end of each year *shall be* applied to the reduction of the principal; unless that surplus or any part of it should be required for public exigencies of the United States, and should be so appropriated by special "Acts of Congress." While at this early period of our finances it was not thought expedient to appropriate this surplus *absolutely* to the *Sinking Fund*, it was contemplated that it should not be diverted except for *public exigencies*. Gratuitously to relinquish it, is therefore contrary to the letter as well as to the spirit of the original institution of the fund. The like observations, though with less force, apply to the provision noticed in another number, respecting the surplusses of the revenue generally, which, as we have seen, are all appropriated to the Sinking Fund. At the session of Congress immediately succeeding any year in which such surplusses may accrue, they may be specially *appropriated* or *reserved* by law, for other purposes; but if this be not done, they are then to go of course to the *Sinking Fund*. To *appropriate* or to *reserve*, plainly, can never mean to *relinquish*. The true meaning of the provision appears, therefore, to be that, though Congress, under the restriction expressed as to time, may *appropriate* or *reserve* those surplusses for other objects of the public service, yet if not wanted for such other objects, they shall continue to inure to the fund for the reduction of the debt, so long as by the laws regulating their duration they are to continue to be levied.

Thus, on whatever side it is viewed, there is a temerity and a levity in the proposition which confounds and amazes.—If, unhappily, it shall receive the sanction of Congress, there will remain nothing in principle of our system of Public Credit—nothing on which the confidence of the creditor can safely repose. The precedent of a fatal innovation will have been established; and its extension to a total annihilation of the security, would be a step, not much more violent, than that by which the inroad had commenced. But it is devoutly to be hoped, that the delirium of party spirit will not so far transport the Legislative Representatives of the nation, as to induce them to put the seal to a measure, as motiveless—as precipitate—as impolitic—as *faithless*—as could have been dictated, even by a deliberate hostility to the vital principles of our national credit. Peculiarly the guardians of the PUBLIC FAITH, and of the *Public Purse*, they surely will not consent to impoverish the one, and the other, through an abject and criminal complaisance.

It is a fact not unknown to himself, that abroad as well as at home, a diffidence has been entertained of the opinions and views of the person now at the head of our government, with regard to our system of public credit. This undoubtedly ought to have been with him a strong reason for caution, especially at so early a stage of his administration, as to any step which might strengthen that diffidence; which was in the least equivocal in its tendency. Nor ought it to have been overlooked, that the interest of the State, and a regard for his own reputation demanded this caution. The appearance of instability in the plans of a government, particularly respecting its finances, can never fail to make injurious impressions.—To a government, the character of which has not yet been established by time, the example of sudden and questionable innovations, may be expected to be in the highest degree detrimental. Prudent men every where are apt to take the alarm at great changes not manifestly beneficial and proper; a disposition which has been much increased by the terrible events of the present revolutionary æra. Yet, disregarding these salutary and obvious reflections, the President has ventured, in the very infancy of his administration, upon the bold and unjustifiable step of recommending to the legislative body, a renunciation of the whole *internal revenue* of the country; though the nation is at this moment encumbered with a considerable public debt; and though that very revenue, is, by the existing laws, an established fund for its discharge.

What then are we to think of the ostentatious assurance in the Inaugural Speech as to the preservation of PUBLIC FAITH? Was it given merely to amuse with agreeable, but deceptive sounds? Is it possible that it could have been intended to conceal the insidious design of aiming a deadly blow at a System which was opposed in its origin, and has been calumniated in every stage of its progress?

Alas! How deplorable will it be, should it ever become proverbial, that a President of the United States, like the *Wierd Sisters* in Macbeth, "*Keeps his promise to the ear, but breaks it to the sense!*"

NUMBER V.

IN the rage for change, or under the stimulus of a deep-rooted animosity against the former administrations, or for the sake of gaining popular favour by a profuse display of extraordinary zeal for economy, even our judiciary system has not passed unassailed. The attack here is not so open as that on the revenue; but when we are told that the states individually have "*principal* care of our persons, our property and our reputation; constituting the great field of human concerns; and that therefore *we may well doubt whether our organization is not too complicated, too expensive*; whether offices and officers have not been multiplied unnecessarily and sometimes injuriously to the service they were meant to promote;" when afterwards it is observed that "the Judiciary System will of *course* present itself to the contemplation of Congress;" and when it appears that pains had been taken to form and communicate a numerical list of all the causes decided since the first establishment of the courts, in order that Congress may be able to judge of the proportion which the institution bears to the business; with all these indications it is not to be misunderstood that the intention was unequivocally to recommend *material* alterations in the system.

No bad thermometer of the capacity of our Chief Magistrate for government is furnished, by the rule which he offers for judging of the utility of the Federal Courts; namely, the exact *number* of causes which have been by them decided. There is hardly any stronger symptom of a pigmy mind, than a propensity to allow greater weight to *secondary* than to *primary* considerations.

It ought at least to have been adverted to, that if this circumstance were a perfect criterion, it is yet too early to apply it, especially to the courts recently erected: And it might have merited reflection, that it would have been prudent to wait for a more advanced period of the Presidential term, to ascertain what influence the great change which has lately happened in our *public functionaries* may have on the confidence, which in many parts of the Union has heretofore been reposed in the State courts, so as to prevent a preference of those of the United States.

But to enable us duly to appreciate the wisdom of the projected innovation, it is necessary to review the objects which were designed to be accomplished by the arrangement of the Judiciary power, as it is seen in the constitution, and to examine the organization which has been adopted to give effect to those objects.

It is well known to all who were acquainted with the situation of our public affairs, when the constitution was framed, and it is to be inferred from the provisions of the instrument itself, that the objects contemplated, were, 1st. To provide a faithful and efficient organ for carrying into execution the laws of the United States, which otherwise would be a *dead letter*. 2d. To secure the fair interpretation and execution of our treaties with foreign nations. 3d. To maintain harmony between the individual states; not only by an independent and impartial mode of determining controversies between them, but by frustrating the effects of partial laws in any one, injurious to the rights of the citizens of another. 4th. To guard generally against the invasions of property and right by fraudulent and oppressive laws of particular states enforced by their own tribunals. 5th. To guard the rights and conciliate the confidence of foreigners, by giving them the option of tribunals created by and responsible to the general government; which having the immediate charge of our external relations, including the care of our national peace, might be expected to be more tenacious of such an administration of justice as would leave to the citizens of other countries no real cause of complaint. 6th. To protect reciprocally the rights, and inspire mutually the confidence of the citizens of different states in their intercourse with each other, by enabling them to resort to tribunals so constituted as to be essentially free from local bias or partiality. 7th. To give the citizens of each state a fair chance of impartial justice through the medium of those tribunals, in cases in which the titles to property might depend on the conflicting grants of different states.---These were the immensely important objects to be attained by the institution of an adequate Judiciary power in the government of the United States. Nor did its institution depend upon mere speculative opinion, though indeed even that would have been sufficient to indicate the expediency of the measure: but experience had actually in a variety of ways demonstrated its necessity.

The treaties of the United States had been infracted by state laws, put in execution by state judicatories. The rights of property had been invaded by the same means, in numerous instances, as well with respect to foreigners as to citizens; as well between citizens of different states, as between citizens of the same state. There were many cases in which lands were held or claimed under adverse grants of different states, having rival pretensions; and in respect to which the local tribunals, even if not fettered by the local laws, could hardly be expected to be impartial. In several of the states the courts were so constituted as not to afford sufficient assurance of a pure, enlightened and independent administration of justice; an evil which in some of them still continues. From these different sources, serious mischiefs had been felt. The interests of the United States, in their foreign concerns, had suffered; their reputation had been tarnished; their peace endangered; their mutual harmony had been disturbed or menaced; creditors had been ruined or in a very extensive degree much injured; confidence in pecuniary transactions had been destroyed, and the springs of industry had been proportiona-

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* Passed March 3d, 1791.

bly related. To these circumstances, as much, perhaps, as to any other, that accompanied a defective social organization, are we to attribute that miserable and prostrate situation of our affairs, which immediately before the establishment of our present National Constitution, filled every intelligent lover of his country with affliction and mortification. To the institution of a competent judiciary, little less than to any one provision in that constitution, is to be ascribed the rapid and salutary renovation of our affairs which succeeded.

The enumeration* of the component parts of the Judicial power, in the constitution, has an evident eye to the several objects which have been stated: And considering their vast magnitude, no sound politician will doubt that the principal question, with the administration, ought to be, how to give the greatest efficacy to this essential part of the system; in comparison with which the more or less of expense, must be a matter of trivial moment. The difference of expense between an enlarged and a contracted plan, may be deemed an atom in the great scale of national expenditure. The fulfillment of the important ends of this part of our constitutional plan, though with but a small degree of additional energy, facility, or convenience, must infinitely overbalance the consideration of such difference of expense.

The number of causes, which have been tried in these courts, as already intimated, can furnish but a very imperfect test by which to decide upon their utility or necessity. Their existence alone has a powerful and salutary effect. The liberty to use them, even where it is not often exercised, inspires confidence in the intercourse of business. They are viewed as beneficient guardians whose protection may be claimed when necessary. They induce caution in the state courts, and promote in them, a more attentive, if not a more able administration of justice. Though in some districts of the union the federal courts are seldom resorted to, in others they are used in an extensive degree, particularly as between foreigners and citizens, and between citizens of different states.

That their organization throughout the United States ought to be uniform, will not be denied; and it is evident that it ought to be regulated by the situation of those parts in which a greater degree of employment denotes the courts to be most necessary: Of consequence, if the quantity of business were at all a guide, the scenes in which there is the greatest employment for the federal courts, ought to furnish the rule of computation; it ought not to be sought for in the aggregate of business, throughout the union.—In reference to this point, it is likewise material to observe that, from the manner in which the federal courts were constituted, previous to the last arrangement, *the organization* of the state courts was so much better adapted to expedition, as to afford a strong motive for giving them a preference. The establishment of circuit courts, as now modified, will vary that circumstance, and therefore, attract more business; but it is evident that, it must require a course of years, fully to exemplify its operations, which cannot be seen in a few months, or in a single year. To attempt, therefore, to draw important inferences from the short experience hitherto had, is worse than puerile.

LUCIUS CRASSUS.

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* "SEC. II. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof and foreign states, citizens or subjects.

A FRIEND TO THE CONSTITUTION.

No. II.

THE constitution ordains that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish....*The judges both of the supreme and inferior courts shall hold their offices during good behaviour*, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

A prior section provides that all civil officers of the United States shall be removable from office on impeachment.

At the last session of congress, an act passed ordaining and establishing in each state, circuit courts inferior to the supreme court. The judges who were to administer justice in these courts have been appointed, and, in conformity with the constitution, have received commissions *during good behaviour*.

It is now contended that these judges are dependent on the will of congress, who may repeal the law, abolish the office, and discontinue the judge.

This is the opinion I mean to controvert.

The words of the constitution leave it in the discretion of the legislature to ordain and establish such inferior courts as, from time to time their wisdom may suggest.

The reason of this is apparent. The situation of the United States, a country increasing beyond calculation, in population, in wealth, and resources, will continue to change. The necessity for inferior courts will very probably change with this change of situation, congress is rightly permitted to judge of this necessity, and, from time to time, to establish such courts; but when established, "the judges," says the constitution, "shall hold their offices during good behaviour." The constitution then has submitted to legislative decision the establishment of the court, but not the permanence or independence of the judge. So soon as he is appointed, the constitution adopts him, and declares that he shall hold his office by the firm tenure of "*good behaviour*." He is recognized by the constitution, and becomes a judge under it, not merely by virtue of the law.

If it be possible to make this subject still more clear than it is in the charter of our government, I would attempt it by varying somewhat the expression of that instrument. Suppose, instead of ordaining that there should be a supreme court, the article had allowed still greater latitude to the legislature, and had declared that the judicial power of the United States should be vested in such courts as congress should, from time to time, ordain and establish, and that the judges of such courts should hold their offices during good behaviour, could it have entered into the mind of any man to say, that the provision for the permanence of the judge had been totally annulled, by the power given to congress, from time to time to establish the courts? That, because the necessity for exercising the power of establishing courts was a continuing necessity, and, consequently, the power ought not to be terminated by the first exercise thereof, nor the number of courts limited in the constitution, therefore the constitution was unable to provide for the independence of the judges, and the attempt made to do so, by positively ordaining that they should hold their offices *during good behaviour*, was a void and ineffectual attempt? This proposition would seem too absurd to be maintained, nor would it be less absurd to contend, that, by establishing absolutely a supreme court, the force of the clause, declaring that the judges of the inferior courts "shall hold their offices during good behaviour," is in any degree impaired.

The letter of the constitution, then, which declares in terms that "the judges, both of the supreme and inferior courts, shall hold their offices during good behaviour," is unaccompanied by other expressions, which might give colour to a construction hostile to the very words themselves.

If we examine the dutles, which must have been contemplated for the supreme and inferior courts, we shall perceive no reason to admit the possibility of an intention, varying from the words, which have been used. The original jurisdiction of the supreme court extends only to "cases affecting ambassadors, other public ministers and consuls, and those, in which a state shall be party." The great residuary mass of jurisdiction, involving life, personal liberty, reputation, and property, is committed to the inferior courts; and the appeal to the supreme court is allowed, "with such exceptions, and under such regulations, as the congress shall make." The most interesting objects, therefore, may be decided ultimately by the inferior courts. Indeed, in cases of imprisonment, should an appeal from the judgment be always allowed, the punishment might often be suffered, pending the appeal.

If, then, the motive for giving independence to the judges, be the security, which that independence affords to the life, liberty, and property of the citizen, that motive applies with peculiar force to those of the inferior courts.

But if the strange opinion that any discretional agency of congress, in the establishment of courts, over-rules the positive and explicit regulation of the constitution, concerning the tenure of office, is to be supported, it applies as well to the supreme as inferior court. The constitution, which declares that the judicial power shall be vested in one supreme court, and in such inferior courts as congress may establish, does not fix the number of judges, who shall compose that court. The number is fixed by law; and that law may be repealed, and the number reduced; so that, according to this opinion, all the judges of the United States would be removable by the repeal of the laws, establishing the courts, of which they are members.

But the continuance of the individual in office is not secured by that part of the article, which declares, that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts, as congress shall, from time to time, ordain and establish." Had the article proceeded no farther, the exterior form of the system would indeed have been marked out, the parts to compose it would have been designated, but the rights of the individual would have been left to the discretion of the legislature. The judge might certainly have held his office at the will of the president or of congress, or in any other manner the law might have prescribed. It is the subsequent part of the article, ordaining that "the judges, both of the supreme and inferior courts, shall hold their offices during good behaviour," which constitutes their independence, and this plainly embraces the judges of the one court as well as of the other.

The right to permanence in office is then alike bestowed, by the constitution, on the judges of the supreme and inferior courts, and the inquiry is reduced to this naked question, do they really hold their offices during good behaviour, or at the will of congress?

This question, if indeed it can, without insult to the human judgment, be termed one, shall now receive a brief consideration.

The proposition, that the constitution is the paramount law, and that it limits the powers of the legislature, as well as that of the other departments of government, is no longer a problem in the United States. Had the members of the legislature even not sworn to observe it, still they have no power, as a legislature, to pass the boundary it

has marked out; and beyond its lines, they are mere individuals.

The injunction of the constitution, then, is to be religiously observed, and we have only to inquire what that injunction is. For this we must resort to the instrument itself. The words are, "the judges, both of the supreme and inferior courts, shall hold their offices during good behaviour." If words are the fixed representatives of ideas; if they convey to the mind any distinct meaning; what idea, let me ask, is represented, what meaning is conveyed by the words "shall hold their offices during good behaviour?" When they proceed from an authority, which admits of no opposition, which cannot be disobeyed, they amount, certainly, to an exclusion of any other possible mode of terminating the office, by the act of government, than by convicting the officer of a breach of good behaviour. They "shall hold their offices during good behaviour," is certainly equivalent to saying *they shall hold their offices until they misbehave:* And this imperative sentence will admit of the substitution of no other event for misbehaviour, unless it be by an equivalent authority. If their offices may be terminated by the legislative will, expressed by the repeal of the law, or in any other manner, then they do not hold their offices during good behaviour, merely, but during the will of the legislature also.....But the words of the constitution do not admit of any additional condition, encumbering the pure tenure of good behaviour. They unequivocally exclude any other condition. The mind is irresistibly referred to the conduct of a person holding a commission during good behaviour, as the sole standard, by which his right to remain in office can be measured.

If a person, declared by the constitution to be in office during good behaviour, can be removed by the legislature, then, either the constitution does not bind the legislature, or *good behaviour* and *legislative will* are synonimous terms.

The first part of the proposition has long since been decided, and the last can be, by the common sense of mankind, but in one manner. I appeal to every man, learned and unlearned, and do not fear finding one, who will assert that the two phrases make on his mind the same impression; that he understands by an office held during good behaviour, an office held during the will of the legislature.

A mode of eluding the intent of the constitution has by some been suggested. These ingenious gentlemen have discovered, that, though the man cannot be removed from his office, yet the office can be removed from the man. As if an office could be holden during good behaviour, and could yet be separated from the holder, by other means than his misbehaviour. This rare piece of cunning, unworthy the integrity of the American character, will not serve the purpose of those, who resort to it. The plain stubborn words of the constitution admit of no such evasion. The man does not hold an office, if the office be struck from his hands..... When a superior, having a right to command, ordains that an office shall be held for a certain time, or until a certain event, the inferior, who, by any means, forces that office out of his hands, before the period arrives, or the event happens, which is to terminate its duration, plainly disobeys the order of his superior; so when a constitution ordains that a judge shall hold an office during good behaviour, the legislature, which would deprive him of that office, without misbehaviour, equally disobeys the plain mandate of the constitution, whether the illicit attempt be made, by removing the man, or annihilating the office.

Those, who maintain the existence of this power in the legislature, are reduced to the necessity of contending substantially, that where the constitution forbids a particular object, that object may be effected circuitously, though not directly: that a measure may be adopted, which, by a necessary consequence, produces the forbidden effect, although the effect cannot be immediately produced. This unworthy artifice can impose on no man. All those, who read the constitution, must perceive that it is the end itself, and not the mean effecting the end, to which that instrument attends; and, consequently, all means, which defeat the end proposed, are alike unlawful.

It cannot escape the most cursory observer, that the views of the constitution must be as entirely defeated, and the independence of the judges as entirely destroyed, in allowing the legislature to deprive them of office, by destroying it, as by removing them from it. In the one mode or the other, the judge becomes entirely dependent on the legislature, who may, at will, terminate his official character. Indeed it would be a work of more difficulty to feign accusations against an upright judge, in order to justify his removal, than to discover that the public good requires some modification of the courts, which would silently displace one set of men, to make room for another.

But if gentlemen could solace themselves under this apparent violation of the constitution, by the miserable attempt at evasion, which has been noticed, even this consolation is unattainable. The office cannot be put down. It is that of a judge, not of this or that circuit, but of the United States. By the express words of the act of congress, the judges, who perform the circuit duty, are judges of the United States. The office to be abolished is that of a judge of the United States.

Have we already made such a progress in a system of reasoning, which is to destroy the constitution of our country, as to come to a conclusion, that the office of a judge of the United States may be abolished by a legislative act?

In the succeeding number, the public attention will be solicited to some opinions, which deserve to be respectfully considered, because they were formed at a time, or on an occasion, when talents and patriotism were not obscured by the spirit of party.

No. III.

AMONG the various commentaries on the American constitution, which were offered to the consideration of the public, while the question of its adoption was depending, no one has acquired or deserved so much reputation, as that written under the signature of PUBLIUS. It is worthy of the pens, to which it has been ascribed*: and, while other productions on the same subject have passed away with the occasion, which gave them birth, this valuable political treatise not only continues to be read with admiration, but is resorted to by all parties, as containing the best exposition ever yet presented to the public eye, of the constitution of our country. To this contemporaneous exposition I will now beg leave to refer.

In his seventy-eighth number, Publius says:..... "According to the plan of the convention, *all the judges*, who may be appointed by the United States, are to hold their offices *during good behaviour*, which is conformable to the most approved of the state constitutions, and, amongst the rest, to that of this state. Its propriety having been drawn into question by the adversaries of that plan, is no light symptom of the rage for objection, which disorders their imaginations and judgments. The standard of good behaviour for the continuance in office of the judicial magistracy, is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy, it is an excellent barrier to the despotism of the prince; in a republic it is no less an excellent barrier to the encroachments and oppressions *of the representative body*. And it is the best expedient, which can be devised in any government, to secure a steady, upright, and impartial administration of the laws." The residue of the chapter, which is too long to be quoted, contains a very able argument, demonstrating the policy of making the judicial independent of the legislative authority.

It will be readily perceived, and the circumstance is not unworthy of attention, that Publius does not attempt to prove that the judges, the tenure of whose office is during good behaviour, cannot be deprived of their offices by any legislative act; but, considering that as a position, too clear to be contested, proceeds to defend it. It is also worthy of remark, that no one of those, whose "rage for objection disordered their imaginations and judgments," counted sufficiently on the public folly to hazard the opinion, that men, who were, by the constitution, fixed in their offices, during good behaviour, could, without violating that constitution, be removed by any measure of any department of government. The friends and the enemies of that instrument concurred in a construction, so obviously required by its words.

When the conventions of the states assembled severally, to deliberate on the great question submitted to their decision, and on which the preservation of the union was believed to depend, it will be admitted, that human ingenuity was put on the rack, to devise objections to the instrument under their consideration. The article, relative to the judiciary of the United States, like every other article in the constitution, was scrutinized, with a wish to condemn. It was objected, that the judges were not sufficiently independent of the legislature, because the power of raising their salaries existed; but no one objector, so far as I am informed of the debates of the conventions, was wild enough to imagine, that they were in fact dependent on the legislature, by holding offices which congress could terminate.

It is not known, that in any of the states, except Virginia, this question has been discussed, in relation to the rights of the state judges. As that state, however, is acknowledged to lead, in the present political system, and as some of its members are understood to be peculiarly ardent in support of the measure, here reprobated as a most daring invasion of the constitution, applicable precedents of construction, drawn from thence, cannot be considered as totally improper.

The constitution of Virginia declares, that "the two houses of assembly shall, by joint ballot, appoint judges of the supreme court of appeals, and general court, judges in chancery, judges of admiralty, secretary, and the attorney general, to be commissioned by the governor, and continue in office, *during good behaviour*."

Another clause subjects them to impeachment for misbehaviour.

By the first judicial system of Virginia, one general court was constituted, with original common law jurisdiction, throughout the state; there was also one court of chancery, with an equitable jurisdiction, equally extensive. To these was added a court of admiralty....and the judges of the court of chancery, general court, and court of admiralty were, by law, declared to constitute the court of appeals. As judges of appeals, no commission was given them. The general court became manifestly incompetent to the business assigned it; and, in order to avoid delays, which amounted to a refusal of justice, a change of system, the necessity of which had become apparent to all, was resolved on.

In 1787, this subject was taken up by the legislature; a system of circuit courts was adopted, and it was enacted, that the judges of the court of appeals should perform the duty of circuit

* Mr. Hamilton, Mr. Jay, and Mr. Madison.

judges. This law the judges refused to execute, as unconstitutional, and agreed unanimously, Edmond Pendleton, George Wythe, John Blair, Paul Carrington, Peter Lyons, William Fleming, Henry Tazewell, Richard Cary, James Henry, and John Tyler being present, on a remonstrance, from which will be extracted such parts, as are deemed applicable to the present inquiry.

After lamenting the necessity of deciding a question between a law and the constitution, and that in a case personally interesting to the judges themselves, they say:

"On this view of the subject, the following alternatives presented themselves to the court;... either to decide these questions, or resign their offices. The latter would have been their choice, if they could have considered these questions, as affecting their individual interests only; but, viewing them as relating to their office, and finding themselves called by their country, to sustain an important post, as one of the three pillars on which the great fabric of government was erected, they judged, that a resignation would subject them to the reproach of deserting their station, and betraying the sacred interests of society intrusted with them, and, on that ground, found themselves obliged to decide, however their delicacy might be wounded, or whatever temporary inconveniences might ensue; and, in that decision, to declare, that the constitution and the act are in opposition, and cannot exist together; and that the former must controul the operation of the latter.

"The propriety and necessity of the independence of the judges is evident in reason, and the nature of the office; since they are to decide between government and the people, as well as between contending citizens; and, if they be dependent on either, corrupt influence may be apprehended, sacrificing the innocent to popular prejudice, and subjecting the poor to oppression and persecution, by the rich. And this applies more forcibly to exclude a dependence on the legislature, a branch of whom, in cases of impeachment, is itself a party.

"This principle supposed, the court are led to consider, whether the people have secured or departed from it, in their constitution or form of government. In that solemn act, they discover the people, distributing the governmental powers into three great branches, legislative, executive, and judiciary, in order to preserve that equipoise, which they judged necessary to secure their liberty; declaring, that those powers be kept separate and distinct from each other, and that no person shall exercise, at the same time, an office in more than one of them. The independence of the two former could not be admitted, because, in them, a long continuance in office might be dangerous to liberty, and therefore they provided for a change, by frequent elections, at stated periods; but, in the last, from the influence of the principle before observed upon, they declared, that the judges should hold their offices during good behaviour. Their independence would have been rendered complete, by fixing the quantum of their salaries."

After stating the vast increase of duty, without a correspondent increase of salary, which they deemed such an attack on their independence, that it would be inconsistent with a conscientious discharge of duty to pass it over, they say: "For vain would be the precaution of the founders of our government to secure liberty, if the legislature, *though restrained from changing the tenure of judicial offices*, are at liberty to compel a resignation, by reducing salaries to a copper, or by making it part of the official duty, to become hewers of wood, or drawers of water."

Without attempting to defend, in its full extent, the opinion advanced by the court of appeals of Virginia, an opinion which very clearly goes beyond the letter of the constitution, and beyond the principles maintained in these numbers, the public attention is solicited to some parts of it, which are believed to be unquestionably correct in themselves, and which are peculiarly applicable to the subject we are discussing.

The judges consider themselves as forming "one of the three pillars, on which the great fabric of government was erected," and that, when this pillar was endangered, "a resignation would subject them to the reproach of deserting their station, and betraying the sacred interests of society, intrusted with them." They say, that "the propriety and necessity of the independence of the judges is evident in reason, and the nature of their office;" and "this," they say, "applies more forcibly to exclude a dependence on the legislature, a branch of whom, in cases of impeachment, is itself a party." Under the influence of these principles, the people, continues the court of appeals, have, in their form of government, "declared that the judges should hold their offices, during good behaviour. Their independence would have been rendered complete, by fixing the quantum of their salaries."

According to the unanimous opinion then, of all the judges of Virginia, an office held under the constitution, during good behaviour, and of which the quantum of salary is fixed, is completely independent of the legislature; and, whenever the legislature can be so unmindful of its high duties, as to assail the independence of the judiciary, the "constitution and the act are in opposition, and cannot exist together, and the former must controul the operation of the latter."

The legislature appears to have acquiesced under this decision of the court. The law was new modelled. A separate court of appeals was established, the judges of which were to be elected by joint ballot, in conformity with the constitution. Several members were added to the general court, and it was declared to be their duty to ride the circuits. The judges of the court of chancery, general court, and court of admiralty, who had not been elected, in pursuance of the constitution, judges of the court of appeals, but on whom that duty was imposed by law, were relieved from the further discharge of it. In making this arrangement, several of the judges were understood to have been consulted; and, on the ballot, the six senior judges were elected, five into the court of appeals, and the sixth into the court of chancery.

Yet this arrangement, so agreeable to many of them, and formed in concert with them, was not accepted without a protest, asserting their rights.

On the fifth of March, 1789, the act was laid before them, Mr. Pendleton, Mr. Wythe, Mr. Blair, Mr. Lyons, Mr. Fleming, Mr. Mercer, Mr. Parker, Mr. Cary, and Mr. Tyler being present, when, after stating reasons for not proceeding on the docket, they say: "But, before the close of their session, they conceive (however painful the repetition) that they are again under an indispensible obligation to advert to an act of assembly, which they are constrained to consider as incompatible with their independence. The act intended, is an act of the last session, for amending the act entitled "an act constituting the court of appeals." The direct operation of this law is the amotion from office, of the whole bench of judges of appeals, and the appointment of new judges to the same court.

"But although the office of a judge of the former court of appeals was in the mode of election as established by the act of 1779, accessary and appendant to an office in one of the superior courts, yet a judge of this supreme court properly invested, was by the constitution intended to be equally independent and equally secure in the enjoyment of that office as of the office of judge of one of the superior courts to which it is annexed, and therefore could not be constitutionally deprived of it. It appears to the court probable that the general assembly were so much engrossed by the idea of the utility of their great object, the establishment of district courts, as either to have overlooked this difficulty which stood in their way, or, if they perceived it, to have counted on the acquiescence of those whose rights were thus to be invaded; and in this expectation (if it was indeed entertained) the legislature were not deceived. The court is truly willing to make any *voluntary* sacrifice for the attainment of so desirable an object as the establishment of courts which by the expeditious administration of justice, will not only give that relief to suffering creditors which has already been too long withheld from them, but contribute much to the increase of industry and improvement of the morals of the people. Yet whatever concessions this court may be willing to make, they think it their duty to guard against encroachment. And in conformity to these sentiments, after protesting against *every invasion of the judiciary establishment or any deprivation of office in that line in any other mode than is pointed out in the constitution*,* they do hereby in their mere free will in order to make way for the salutary system lately adopted, resign their appointment as judges of the court of appeals, and as they do not hold any separate commission for that office which might be returned, do order the same to be recorded."

It is to be recollected that by the act here noticed, no judge was to be divested of his judicial character or of his salary. No constitutional court of appeal then existed. No judges had been elected or commissioned for that court in the manner prescribed by the constitution, and its duties had been assigned by an ordinary legislative act, to the judges of the court of chancery, general court, and court of admiralty. The legislature thought itself competent to relieve these judges from this extra duty, but without diminishing their salaries, and to erect a court of appeals in pursuance of the constitution. The judges in this state of things, delivered opinions, which, however, they might have been misapplied on that occasion, are unquestionably correct in themselves, and directly applicable to the present situation of the circuit judges of the United States. They declare, that "they are constrained to consider" the act repealing the law by which the court of appeals was constituted, "as incompatible with their independence." That a judge of the supreme court properly invested was intended by the constitution to be equally independent and equally secure in the enjoyment of that office, as of the office of judge of one of the superior courts to which it was annexed, and, therefore, *could not be constitutionally deprived of it.*" That "whatever concessions the court may be willing to make, they think it their duty to guard against encroachments;" and they protest "against *every invasion of the judiciary establishment*," or "*any deprivation of office in that line in any other mode than is pointed out in the constitution.*"

These were the sentiments of the court of appeals of Virginia, when that court was composed of all the judges of the commonwealth, and when its bench was graced with law characters of whom she does not yet cease to boast. The miserable quibble (if indeed it be not even below that epithet) of distinguishing between a blow at the office and at the man, was then undiscovered. The judges declare that they cannot be constitutionally *deprived of office*. And this declaration is made in consequence of a law repealing that by which the duties of judges of appeals were assigned to them. Their protest is against *every legislative invasion of the judiciary establishments, and any legislative de-*

* That is by impeachment.

privation of office, no matter by what mode, as unconstitutional. It was at that time the opinion of Virginia that no means could be lawful, which were adopted to effect an unlawful end.

(To be Concluded in our next.)

FESTOON OF FASHION.

FOR THE PORT FOLIO.

AS it is notorious that the Ladies of America neither paint their cheeks, nor "daub their *tempers* o'er with washes, as artificial as their faces," we publish the following merely as a satire upon *European* deception. We do not dream that any *Domestic* application can be made.

Great praise is unquestionably due to those beautifiers of the human countenance, the inventors of Cosmetics, aided by the miraculous powers of lotions and tinctures, new beauties reanimate the face, and we behold the roseate bloom of youth smile like morning light on the varnished visage of age.

While a superabundance of paints and lotions renovate beauty, the fair artist daily improves in taste; she guides the pencil with such skill over every line of her face, and imitates nature with such elegance that we may soon be able to boast of female portrait painters, who will excel, even sir Joshua Reynolds himself. One great advantage in favour of female genius in this instance is the superior texture of the skin to canvas, or any other artificial ground. It is to be regretted, however, that too many of our female artists grow negligent after marriage, and, reflecting that the portrait is sold, take little pains to improve its tints; nay, it is asserted, that they often become hideously deformed in a few years. This is certainly a great imperfection, for the works of the most eminent male artists have generally become more estimable in the eyes of the connoisseur in porportion to their antiquity.

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As it is a matter of infinite importance that the Belles of Philadelphia should be acquainted with the *movements* of the belles of New-York, we *hasten* with the speed of a *Lauriston*, to communicate the following from the "New-York Evening Post."

On new year's eve the City Assemblies commenced for the season, with a display of much beauty and fashion: the company though not large was select and brilliant. The Ball was particularly distinguished, by the presence of six young ladies, who had chosen this evening for their *first* appearance; and whose attractions promise to add much to the brilliance of our succeeding assemblies.

It was further honoured by the attendance of the lovely Mrs. F——, who made her bridal *debut* with undiminished charms, and received from the managers the customary compliment.

At eleven, a handsome cold collation was served up: in which was provided, with a laudable omission of expensive superfluities, an abundant supply of such *substantial* refreshment as the season affords. After the active amusement of the evening, the pinion of a partridge appeared not unacceptable to the most youthful and delicate of the party: while the ladies *of a certain age*, to speak in courtly French style, whose pleasure had been derived from witnessing the enjoyment of their juvenile friends, regaled with the sedatest satisfaction on the plentiful variety of wild and tame with which the tables were furnished.

After being invigorated by this seasonable repast, the company returned to their favourite amusement; and, with great good humor, bade adieu to the *past*, and welcomed the *present* year.

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Rose in the prevailing colour at Paris. They seem to use reluctantly black velvet for the hats of the season. Black crape hats are still much worn; on these are remarked large comets, placed at equal distances, and forming chequered squares. The morning caps are of white crape, and have bands of Chinese ribbon across them. The ends of the ribbons are left very long, and cut in the form of horns. The horns are particularly noticed on the *Sparterie* straw hats.—Short jackets have replaced the spencers.

LITERARY INTELLIGENCE.

——Proposals, by G. F. Hopkins, No. 118, Pearl street, New-York, for publishing, by subscription, in two handsome octavo volumes, THE FEDERALIST, on the New Constitution, by Publius; written in 1788. To which is added, PACIFICUS, on the Proclamation of Neutrality, written in 1793. The whole revised and corrected, with new passages and notes.....The Federalist was written in a series of numbers, under the signature of Publius, shortly after the promulgation of the federal constitution, addressed to the people of the state of New-York, with the design of enforcing the propriety and necessity of its adoption. It is principally the production of a man, whose name will be held in sacred respect long after the pitiful attempts, which have been made to slander his fame, shall have sunk into oblivion. Two other gentlemen, of distinguished talents, occasionally contributed some essays, which will be marked in the publication*. All parties seem, at length, united in professions of regard for the constitution; if they are sincere, the consideration cannot fail to enhance the value of a work, which, by employing all the energy of argument, and all the persuasion of eloquence, was eminently useful in promoting its general ratification. Whoever is desirous of being well informed of the principles and provisions of our government, and the manner, in which they have been supported and vindicated; of the objections, that were made to the constitution by its first opposers, and how they were answered, will find these volumes fraught with ample and satisfactory instruction. The study of them must form an essential part of the education of the American statesman. Politicians, indeed, of every country, will here discover materials in the science of government, well worthy of their attention; a science, of all others, the most interesting to mankind, as it most deeply concerns human happiness. The Federalist contains principles, that may be remembered and studied with advantage, by all classes of men, in other countries than our own, and in other ages from that, in which we live. The people of America, alone, have afforded the example of a pure representative republic. In this work it will appear, that the principles of this form of government have been well understood, and thoroughly developed; and should, unfortunately, the experiment which we have made, hereafter fail, it will be in vain to attempt the renewal of similar systems, as no rational hope can be entertained, that more correct notions, on this subject, will prevail, than are here exhibited. To preserve these papers, therefore, which have so much intrinsic merit, and such lasting utility, in a dress suitable to their character, is the inducement to their re-publication. Pacificus is from the pen of the same enlightened statesman, who was the chief author of the Federalist. These essays were written in defence of the first leading step, which our government took to preserve that neutrality, which it continued to maintain, during the late Trans-Atlantic conflict; a conflict, which has annihilated the minor powers of Europe, and shaken the civilised world. Now that the storm has passed over, and the angry and tumultuous passions, which, at that time, agitated our country, have, in some measure, subsided, these papers will be read with profit and pleasure, by the intelligent man of every party. Candour will probably wonder, that any should have doubted of the fitness of the measures, which this writer has so ably advocated, and which experience has so forcibly proved to have been the best adapted to the interests of the country. To give to these latter essays a form which shall outlive the fleeting impressions of a newspaper, they are incorporated in these volumes. Publius and Pacificus will serve to keep in just remembrance two very important events in the history of our country.

CONDITIONS:

I. The work shall be put to press immediately after 400 subscribers are obtained, and finished with the utmost expedition.

II. Where practicable, the books shall be forwarded, free of expense, to such places as may be designated, and a person appointed to deliver them.

III. It shall be printed on a superfine medium paper, with a neat type, handsomely bound and lettered, and delivered to subscribers at two dollars a volume. To non-subscribers the price will be enhanced.

IV. Subscribers to pay, where convenient, one dollar in advance.

*** Subscriptions received by the publisher..... also by the principal booksellers in the United States, where such gentlemen as chuse can subscribe, without paying till the work is published. The holders of subscription papers will particularly oblige, by advising the publisher of the number of subscribers obtained, before the first of April.

* The first gentleman here alluded to, is General Hamilton,....the other two, Mr. Maddison and Mr. Jay.

MISCELLANEOUS PARAGRAPHS.

FOR THE PORT FOLIO.

THE annual ode, by the Connecticut wits, for the new year, sarcastically opens in the following manner, at the expense of our political visionaries:

"Oft has the period been foretold,
By prophets and by seers of old,
When men and beasts should all be blest,
With long and universal rest;
When fists no more 'gainst fists should rise,
No bloody nose, no blacken'd eyes,
When gaols should into taverns turn,
The gallows be cut up to burn,
"*Oppress'd humanity*" no more
Should wander to Botania's shore;
But birds of every note and feather,
And snakes and toads should flock together.
And bears and wolves should learn to browse,
And go to pasture with our cows.
Then every child, well brac'd with health,
Well fed, well cloath'd, and fill'd with wealth,
No sorrows in his bosom rankling,
hall die *as old as Dr. Franklin.*
And Satan, source of all our evils,
Chief Consul of the other devils,
Shall for his sins, and tricks, and strife,
To Simsbury mines be sent for life.
That this blest morn approacheth nigh
Behold the beams in yonder sky.
The cock has crow'd; from spray to spray
The songsters greet the god of day;
The day-spring fires the east with red,
And smiles on every mountain's head.

—

A late writer, of some humour and knowledge of the world, introduces, in an ingenious novel, the characters of a libertine and a man of chaste habits and deportment. The former is made to say, that he should avoid marriage, on the principle, that it would be impossible to keep the flame of love burning longer than during one moon. The other, in reply, drily observes, that this is precisely the case of the man, who declines partaking of a good dinner, lest it should spoil his appetite. [*F. Museum.*

—

A New-York paper mentions the marriage of a Mr. Wallace to miss Helena *Fortune*. All *Fortune's* daughters, but the *eldest*, is a common toast. We hope Mr. Wallace is not wedded to *miss* fo-

tune, but that he is rich with the boon of a smiling sister, and that he may have reason loudly to laugh

" Quoties voluit *Fortuna* jocari."

—

The " New-England Palladium" commences the new year with augmented spirit. The daily increase of the value and circulation of this excellent paper is manifest to every delighted reader. No paper in the union receives so much literary and political aid.

—

One can scarcely forbear smiling at a marginal note of lord Coke, in which he gravely acquaints his reader with an excellence, which he might otherwise have overlooked: " This," says he, " is the thirty-third time that Virgil hath been quoted in this work." The mixture, however, is so preposterous, that to those, who can read Coke with pleasure, these passages will appear like a dancer, who should intrude on the solemnity of a senate; and to those, who have a taste only for polite literature like a fountain or a palm tree, in the deserts of Arabia.

—

A Wilkesbarre wit, with many an arch allusion to a great man's speech, thus describes the " procedure" of a *herd* of *kine*, a sort of democratic party, rather more respectable, in point of talents, sense, and integrity, than any *popular herd*.

" On Thursday last, a number of democratic *cows* held a meeting, for the purpose of devising means to " *restore harmony to social intercourse*," when it was observed, that the only sure method of accomplishing this desirable end, would be, by seizing on all the federal cow bells, and giving them to the democratic cows; until this should be done, it was contended that the cows, without bells, would keep up a continual bellowing, and peace could not be expected. A cow of a different " *sect*" was opposed to the motion, as unjust, but the *mob*, in their zeal for *peace*, declared the end would justify the means, and, to prevent any further opposition to their laudable plan, rushed upon the unfortunate cow, and gored her to death."

—

The Editor of the Gazette of the United States, in a late paper, indulges himself in some very successful sneers, at the expense of the administration. He laughingly tells us, that since, unhappily, we are doomed to have the monied matters of the treasury conducted by a foreigner, one would suppose we might, at least, have the treasury language managed by an American. In the late report of the secretary, there is such a derangement and confusion of the auxilary verbs and prepositions, that, in some places the language is totally unintelligible. Mr. Gallatin should be reminded of the anecdote of the unfortunate Frenchman, who, in falling into the Thames, cried out, " I *will* be drowned, nobody *shall* save me."

—

It is said, that commodore Dale is to be tried, for the indignity brought upon the American flag, by feeding his crew on English beef at Gibraltar. It is understood, that the commodore means to rebut the charge, by proving that he employed French cooks....*Ibid.*

—

The attorney general of the United States is supposed to be the author of a series of rumbling and incorrect essays, called " The Worcester Farmer."

SUBJECT FOR THE PENCIL.

The " *Worcester Farmer*," with a mask on, upon which, in large capitals, appear " *Candour and Moderation.*" His right hand resting upon a *guillotine*.....his left, with No. 10, pointing to the " Ægis," with its motto, " *nimbosque cieret*,".....i. e. *I shall raise a tempest, in New-England.* At a small distance, two horses and a yoke of oxen, trying to answer the questions about the navy-yard.....the *Berceau* in perspective.....*Palladium.*

—

When the Mammoth cheese arrived at Washington, the president, as we are informed by the *Evening Post*, stood in his door to receive it, dressed in his *suit of customary black*, with shoes on, that closed tight round his ancles, laced up with neat leathern strings, and absolutely without buckles, considering them as superfluous and anti-republican, especially when a man has strings.

—

A northern paper wittily proposes the following cheap method of *radical reform:*

" Take the salaries of all the judges, and divide their amount by the number of cases which have been decided, and the quotient will show the cost of each decision. Then, by another operation, see whether the *justice* is worth the *money*."

—

Certain it is, says a grave writer, that the finest show in the world excites but little curiosity in those, who have seen it before. " That was a very fine picture," says the connoisseur, " *but I had seen it before.*" " 'Twas a sweet song," says the amateur, " *but I had heard it before.*" " A very fine poem," says the critic, " *but I had read it before.*" Let every lady, therefore, take care, that, while she is displaying in public, a bosom whiter than snow, the men do not look as if they were saying, " 'Tis very pretty, *but we have seen it before!*"

—

What Horace Walpole and lord Chesterfield thought on the *undress* of the ladies, in the year 1753, may, perhaps, be applicable to some of our *Talliens*.

" It may be urged that the *nakedness in fashion* is intended only to be emblamatical of the *innocence* of the present generation of young ladies, as we read of our first mother, before the fall, that " she was naked, and not *ashamed;* but one cannot help thinking, that her daughters of these days should convince us, that they are entirely free from *original sin*, as well as actual transgression, or else be ashamed of *their* nakedness."

—

Some of our *sensitive* politicians of the new sect, talk, amid the figures of arithmetic, a great deal about *public* " *sensation*," and " *public sensibility.*".... Mr. Dana, member of congress from the state of Connecticut, a sound and spirited politician, who, in the *worst of times*, has the courage, careless of a vulgar popularity, *boldly* to express, what he *justly* conceives, lately declared:

" He could not, for his part, feel all that horror of public sensibility that had been pourtrayed. What have we to fear, *suppose we interfere* with that sensibility? If we do so, in the discharge of our duty, he was perfectly willing it should be excited; nay, it would be useful to the people themselves."

These sentiments are not at all to the taste of the frantic populace, the infuriated democrats, and " acquitted felons" of this distracted country.

—

The ridiculous mummery of the " Mammoth cheese," and the curious circumstance of its being conveyed to Washington by a *priest*, are most poetically satirized in the new year's verses at Hartford:

" A parson Leland too at ease,
High mounted on a *Mammoth cheese*,
From curds and skimmers lifts his sight,
Like Moses on Mount Pisgah's height;
Thro' whey and rennet darts his eye,
And sees *new milk beyond the sky!*"

This place has been lately honoured with a visit of the *learned pig;* and we might have been wonderfully edified by this time, if he had not been hurried away, the *swinish multitude*, perhaps, being displeased to see any creature that is *wiser than themselves.*

—

A correspondent doubts, whether the presence of the learned pig may not be necessary at the Federal City, for putting an end to the disputes that prevail there at present. It is certain he set off thither, in great haste; but it is all in vain for us to dive into the secret motives of pigs and politicians.

—

There seems to be a perfect opposition betwixt the views of the founders of seminaries in former times, and those of our enlightened age. The founders of seminaries in Europe, took care that learned men should eat and drink, and be free from care and anxiety for their support, being persuaded that, in that situation, they would exert themselves most effectually, for promoting the interests of learning; and the respect that was paid them, by persons of all ranks, gave weight and authority to their instructions. But, in our glorious republics, men of letters are hired, like mechanics, at the lowest rate that they can be found, and a certain labour, or *opus operatum*, is imposed on them, by ignorant task-masters, who proceed on mere mechanical ideas, and consider the business of instructing youth, as entirely the same with that of squaring logs, or hammering bar iron, on which a certain number of percussions produce a certain and determinate effect. They insist that you should make bricks, not only without straw, but without *clay*, fit for the purpose, and accuse you of idleness or incapacity, if you do not perform impossibilities. When this grievance will be removed, is dubious. It is certain that it never will be removed, *during the reign of the sovereign people.*

—

One of the most remarkable events of the present time is, that Mr. Jefferson has been seen at church, and has assisted in singing the hundredth psalm. But whether his devotions were addressed to one God, or to twenty Gods, or to no God, or to the sovereign people, by whom Robespierre was wont to swear as the Supreme Being, neither his own writings, nor our information enable us to determine. It is probable, however, that he prayed that his legs might not be broken, nor his pockets picked, that he might continue to be president, and not be obliged to pay his British debts. It is uncertain whether he offered any petition for the *people;* nor can we imagine what he could ask for them, according to his principles, as they are already possessed of all power, all wisdom, and all property. If he asked any thing for them, it is probable that he prayed they might enjoy as much liberty and peace under his administration, as the citizens of the French republic enjoy, under the dominion of Buonaparte, or as the negroes of St. Domingo, " *God's chosen people, if he ever had a chosen people*," enjoy, under the dominion of Touissant.

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